



The Children's Law Center



A Fact Sheet by the ACLU, The Children's Law Center & The Office of the Ohio State Public Defender

Ensuring Access to Counsel in Ohio: Estimated Waiver Rates By County

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As a preliminary note, it is important to recognize that there is no completely accurate way to calculate the rate at which youth waive the right to counsel in Ohio. There are several reasons for this, but primarily it is the result of inconsistent methodology among counties as to how this information is kept, if it is kept at all. For instance, counties may record waiver rates by actual case (i.e., one youth whose case was assigned a docket number), or by individual proceeding (i.e., counsel was waived at the adjudication hearing but not the disposition hearing). Unlike in some states (e.g., Indiana), courts in Ohio do not include in their annual report to the Supreme Court the number of unrepresented individuals for various proceedings.

The estimates here were calculated by taking 80%¹ of the total number of delinquency and unruly cases terminated in each county during 2004 and dividing that number by the total number of terminated cases in which the child was represented by a public defender or appointed counsel who actually billed the Office of the Ohio Public Defender office for reimbursement.

When *Justice Cut Short* was released in March of 2003, investigators noted that in the 12 counties visited (representing a mix of large urban, small urban and rural counties), there were significantly high rates of waiver in all but 2 counties - as high as 80%. These figures were reported by judges, lawyers, and others in the system, and as witnessed by investigators who sat in on numerous juvenile hearings. Now, three years later, there does not appear to have been any significant changes statewide in these high waiver rates, and it appears from our estimates that youth continue to go unrepresented in alarmingly high numbers across the state.

Given the data below, it appears that:

- In 73 of Ohio's 88 counties, 60% of juveniles or more lacked legal representation, or there was no claim for reimbursement by the attorney;
- In 24 of those counties, 90% or more went without counsel or there was no claim for reimbursement by the attorney.
- Statewide, two-thirds of the 147,867 juveniles who were the subject of delinquency or unruly complaints resolved in 2004 faced those proceedings without an attorney, or there was no claim for reimbursement by the attorney.

CountyEstimated Waiver Rate

Adams.....	73%
Allen.....	62%
Ashland.....	100%
Ashtabula	13%
Athens.....	89%
Auglaize	90%
Belmont.....	78%
Brown	94%
Butler.....	60%
Carroll.....	93%
Champaign	75%
Clark	83%
Clermont	67%
Clinton	66%
Columbiana.....	82%
Coshocton	49%
Crawford.....	93%
Cuyahoga.....	60%
Darke	86%
Defiance.....	97%
Delaware	28%
Erie.....	85%
Fairfield	45%
Fayette	94%
Franklin	31%

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CountyEstimated Waiver Rate

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Fulton.....	91%	Montgomery.....	55%
Gallia.....	90%	Morgan.....	77%
Geauga.....	60%	Morrow.....	83%
Greene.....	73%	Muskingum.....	76%
Guernsey.....	80%	Noble.....	95%
Hamilton.....	63%	Ottawa.....	93%
Hancock.....	79%	Paulding.....	80%
Hardin.....	74%	Perry.....	93%
Harrison.....	17%	Pickaway.....	98%
Henry.....	91%	Pike.....	96%
Highland.....	49%	Portage.....	69%
Hocking.....	92%	Preble.....	92%
Holmes.....	81%	Putnam.....	87%
Huron.....	36%	Richland.....	88%
Jackson.....	85%	Ross.....	84%
Jefferson.....	76%	Sandusky.....	86%
Knox.....	69%	Scioto.....	46%
Lake.....	22%	Seneca.....	71%
Lawrence.....	62%	Shelby.....	71%
Licking.....	80%	Stark.....	31%
Logan.....	91%	Summit.....	48%
Lorain.....	68%	Trumbull.....	69%
Lucas.....	74%	Tuscarawas.....	64%
Madison.....	86%	Union.....	47%
Mahoning.....	64%	Van Wert.....	90%
Marion.....	90%	Vinton.....	56%
Medina.....	72%	Warren.....	92%
Meigs.....	92%	Washington.....	90%
Mercer.....	89%	Wayne.....	63%
Miami.....	86%	Williams.....	85%
Monroe.....	61%	Wood.....	79%
		Wyandot.....	100%

ENDNOTE

¹ National experts estimate that 80% of all criminal defendants and juveniles in delinquency proceedings are indigent and therefore eligible for public defender services. Arguably, this is even higher for juveniles since all youth are presumed to be indigent. See *also* Ohio Admin. Code § 120-1-03(D) which provides as follows:

In determining eligibility of a child for court-appointed counsel in juvenile court, only the child's income shall initially be considered. The court is encouraged to order parents who are not indigent to pay for the necessary costs of representation for the child in delinquency, unruly, and traffic cases. In no case shall a child be denied appointed counsel because a parent refuses to disclose their financial information or to participate in a reimbursement, recoupment, contribution, or partial payment program.